IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 231 of 2000
With
SPECIAL CIVIL APPLICATION No. 6628 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BOARD OPINION - Petitioner(s)
Versus
SHANGRILA LATEX INDUSTRIES LTD & 7 - Respondent(s)

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Appearance :
BOARD OPINION for Petitioner(s) : 1,
MR RD DAVE for Respondent(s) : 1,
MR JB CHOKSHI for Respondent(s) : 3,
NOTICE SERVED for Respondent(s) : 4,
NOTICE NOT RECD BACK for Respondent(s) : 5,
SINGHI & CO for Respondent(s) : 6,
SERVED BY RPAD - (N) for Respondent(s) : 7 - 8.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 06/03/2006

ORAL COMMON JUDGMENT

Company Petition No. 231 of 2000 arises from the opinion dated 7th August 2000 provided by the Registrar of the BIFR in Case No. 176 of 1997 based

on the minutes of the proceedings dated 7.8.2000 before the BIFR. The BIFR has recommended that it is just and equitable in public interest that M/s. Shangrila Latex Industries Ltd., should be wound-up under Section 20(1) of the Sick Industrial Companies (Special Provisions) Act, 1985.

2. Rule, so far as Special Civil Application No. 6628 of 2001 is concerned. The Special Civil Application is filed by Shangrila Latex Industries Ltd., challenging the order of Appellate Authority for Industrial and Financial Reconstruction dated 8.5.2001 passed in Appeal No. 419 of 2000 as well as order of BIFR dated 7.8.2000 passed in Case No. 176 of 1997. Heard the learned advocates appearing on behalf of Secured Creditors, Shri RD Dave for Shangrila Latex Industries; Shri CB Chokshi for Canara Bank; and M/s. Singhi & Company for ICICI Ltd. Other Secured Creditors, i.e., IFCI and IDBI who are parties to the present proceedings are already served. It is submitted by Shri RD Dave, learned advocate appearing on behalf of the respondent No.1 that the respondent No.1 company has paid the entire

amount due and payable to all the Secured Creditors such as Canara Bank, IFCI, ICICI and IDBI and the respective Secured Creditors have also issued No Due Certificates, except IFCI and the same is awaited from the IFCI. It is submitted that in fact the entire dues of IFCI is also paid. The learned counsel appearing on behalf of respective Secured Creditors have also endorsed the statement of Shri RD Dave, learned advocate appearing on behalf of the respondent No.1 Company.

2.1. Shri RD Dave, learned counsel has submitted that as such there are no Unsecured Creditors except some Sundry Creditors and that too they are with regard to current accounts. He has also further submitted that up-till-now there are no claims of the workers and there is no enforcement of dues of the State and/or Central Government and even if there are any dues of the State and/or Central Government the same can be enforced against the respondent No.1 Company. Considering the aforesaid facts, more particularly when all the Secured Creditors are paid their dues and there are no Unsecured Creditors,

except Sundry Creditors and that too they are with regard to current accounts, and that there are no claims of workers up-till-now, and that there is no enforcement of dues of State and/or Central Government, it is requested to dismiss the Company Petition No. 231 of 2000, and allow the Special Civil Application No. 6628 of 2001 by quashing and setting aside the opinion of the BIFR as well as the order passed by the Appellate Authority.

3. Considering the subsequent development and considering the fact that all the Secured Creditors are paid their entire dues and all the Secured Creditors have also issued No Due Certificates, except IFCI; that there are no Unsecured Creditors except some Sundry Creditors and that too they are with regard to current accounts; that there being no claims of workers up-till-now; and that there is no enforcement of dues of the State and/or Central Government, the respondent No.1 Company is not required to be wound-up and consequently the order of Appellate Authority for Industrial and Financial Reconstruction dated 8.5.2001 passed in Appeal No. 419/2000 as well as the order dated 7.8.2000 passed by

the BIFR in Case No. 176 of 1997 are required to be quashed and set aside.

4. For the reasons stated above, the Company Petition No. 231 of 2000 is hereby dismissed and Special Civil Application No. 6628 of 2001 is allowed. The order passed by the AAIFR dated 8.5.2001 in Appeal No. 419/2000 as well as the order of BIFR dated 7.8.2000 in Case No. 176 of 1997 are hereby quashed and set aside. Rule is made absolute to the aforesaid extent in Special Civil Application No. 6628 of 2001. However, there will be no order as to costs.

[M.R. Shah, J.]

RMR.